

**REMARKS/ARGUMENTS**

1.) The Examiner indicated that the application filing date of December 28, 2004, in the U.S. is more than twelve months after the original filing date of the same application in a foreign country and fails to meet the requirements of 35 U.S.C. §119(a). The application, however, is a national stage application filed under 35 U.S.C. §371, which is not subject to the requirements of §119(a).

2.) **Claim Rejections – 35 U.S.C. §103(a)**

The Examiner has rejected claims 20-33 as being unpatentable over Theimer (US 5,493,692) in view of Baratz (US 2002/0034190 A1). The Applicant traverses the rejections.

Claim 20 recites:

20. A method of delivering a message using at least one telecommunications network, wherein a user has access to a plurality of telecommunications services, which telecommunications services are provided to the user via said at least one network and are accessed by the user using one or more user access devices, said method comprising the steps of:

selecting a target access device from said user access devices based on results of a use-analysis of any of said telecommunications services and said user access devices, said selecting of a target access device being further based on an analysis of operational capabilities of said user access device in dependence of said message content, wherein said message is delivered at said selected target access device by converting at least a part of said message content to a format which is dependent on said selected target access device. (emphasis added).

The Applicant's invention relates to the delivery of messages from a plurality of telecommunications services to one or more of a plurality of user devices belonging to a user. In particular, the invention is characterized by delivering such messages as a function of a use-analysis of those telecommunications services and the user devices. With respect to this aspect of the invention, the Examiner states that Theimer teaches keeping track of "current usage of a device." (Office Action; page 3). With respect to the "current usage" information described by Theimer, the Applicant agrees that Theimer discloses a User Agent that tracks "current state 108" information, including current

location (column 9, lines 64-66), and a Device Agent that tracks "current state 166" of a device (column 13, lines 64-66). The Examiner, however, acknowledges that Theimer does not keep a history of user preference or "usage for a particular device."

To overcome the acknowledged deficiencies of Theimer, the Examiner has looked to the teachings of Baratz. The Examiner states that Baratz teaches "keeping track of history of user access (preference) for a particular site for information (Paragraph 0066)." It appears, however, that the Examiner has read too much into the teachings of Baratz. First, Baratz is not related to the delivery of messages to one or more user access devices of a user. Rather, Baratz is directed to the delivery of a message to a plurality of users as a function of network capacity, the objective being "to achieve better use of the network capacity . . . based on resource availability of the cellular network." (paragraph 0045). In paragraph 66, referenced by the Examiner, it is disclosed that push advertising messages can be sent to a user "as network resources that support the delivers [sic] become available." Baratz does state that such push advertising messages can be selected on a per user basis as a function of the destinations to which a user sends data messages. Because Baratz does not consider the possibility of a user having more than one device, however, there is no teaching therein regarding the delivery of messages to one or more of user access devices of a user based on a use-analysis of those devices. Thus, there is no teaching in Baratz directed to a use-analysis of such one or more user access devices of a user, and the delivery of a message to such user as a function of their use of their multiple devices.

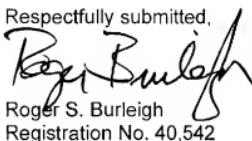
Accordingly, Baratz fails to overcome the deficiencies of Theimer and, therefore, claim 20 is not obvious in view of those references. Whereas claim 27 recites limitations analogous to those of claim 20, it is also not obvious over Theimer in view of Baratz. Furthermore, whereas claims 21-26 and 28-33 are dependent from claims 20 and 27, respectively, and include the limitations thereof, those claims are also patentable.

**CONCLUSION**

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 20-33.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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